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QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES

Report on the situation of human rights in Zaire, prepared by the Special Rapporteur, Mr. Robert Garretón, in accordance with Commission resolution 1996/77

Addendum

Report on the mission carried out at the request of the High Commissioner for Human Rights between 25 and 29 March 1997 to the area occupied by rebels in eastern Zaire

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I. INTRODUCTION

A. The High Commissioner's request

1. In response to various allegations referring to massacres of Hutu refugees in the regions of Northern and Southern Kivu occupied by rebels from the Alliance of Democratic Forces for the Liberation of Congo-Zaire (AFDL), the High Commissioner for Human Rights issued a press release on 6 March 1997 in which, while expressing serious concern at those events, he stated that:

(a) He was studying the possibility of sending human rights observers to eastern Zaire, if the necessary guarantees were provided and the necessary funds were available;

(b) He had asked the Special Rapporteur of the Commission on Human Rights on the situation of human rights in Zaire to investigate the allegations of massacres and make recommendations to the Commission on Human Rights at its forthcoming session, which was to begin the following week.

2. The next day, the President of the Security Council expressed his satisfaction at "the sending of a United Nations fact-finding mission to the area", specifically referring to the consequences of the continued fighting for the refugees.

3. When the Rapporteur learned of the task that had been entrusted to him, he immediately wrote to the High Commissioner stating that (a) in his view the dispatch of observers to the field could not fall outside his own mandate, and that (b) he was "in a position to undertake the field mission immediately or at a time indicated to him". He added that, because of the serious nature of the allegations, "the Rapporteur cannot undertake a mission of this kind with the help of only one assistant: the presence of forensic experts or anthropologists and ballistics experts at the very least appears essential".

4. The Office of the High Commissioner explained to the Rapporteur that the intentions of both the High Commissioner and the Security Council were for the moment limited to a merely preliminary investigation designed to ascertain whether the allegations of massacres of refugees were solid enough to justify an investigation involving all the necessary technical resources. Given the urgent nature of the case, the Rapporteur agreed to undertake the preliminary mission, despite his reservations. For this purpose he requested an authorization for the mission from the Government of Zaire, while the Office of the High Commissioner requested the President of AFDL to allow the investigation to go ahead with security guarantees; this was accepted.

5. The mission was carried out between 25 and 29 March, the Rapporteur being accompanied only by his assistant and the Director of the High Commissioner's office in Kinshasa.

B. The progress of the mission in eastern Zaire

6. The mission began with a round of consultations in Nairobi, in which interviews were held with representatives of United Nations humanitarian agencies, international and Zairian non-governmental organizations, human

rights activists, doctors and eyewitnesses and other persons reporting the events which were to be investigated. A total of 11 persons provided the Rapporteur with valuable information for his work, many of them supplying written reports and evidence.

7. In Zaire, for reasons of time, the mission was limited to the town of Goma, the scene of many of the events under investigation and the seat of the power exercised by AFDL. In Goma it was received twice by Moïse Nyarugabo, Chef de Cabinet of the AFDL President, Laurent-Desiré Kabila, who was away.

8. The Rapporteur also met direct and indirect witnesses, members of the families of the victims, social workers, lawyers and directors of humanitarian organizations within the United Nations system and local and international non-governmental organizations. Rwandan refugees on their way home were also interviewed.

1. A climate in which individuals were afraid to supply information

9. The Special Rapporteur normally identifies his sources of information individually, unless expressly requested not to. On this occasion only one person was prepared to give his name. All the others, both in Nairobi and Goma and in the small localities visited, expressly requested him to withhold not only their identity, but any indication which would enable them or the organization to which they belonged to be identified.

10. This climate of fear contrasts with the atmosphere of greater security generally felt in the town and the small villages. Almost all those interviewed said that the looting carried out by the members of the Zairian Armed Forces (FAZ) had ceased, and that it was safe to walk along the streets. However, they also mentioned that working conditions for non-governmental organizations were very difficult, since they were not free to spread their ideas or the reports they produced.

2. Visits to mass graves

11. The Rapporteur paid three visits to small rural localities in Northern Kivu which reports and witnesses had identified as the scenes of massacres, or where there were indications of the existence of mass graves. He visited a site in Kilimanyoka where, in the middle of the forest, a few metres from the road, various pits covered with stones containing corpses could be clearly seen. He examined two of them, which, according to the witness who found them, contained 46 corpses. He had found some of the remains "on 13 January; they were freshly buried, they had died no more than 24 hours previously, they had their hands tied behind their backs, they were naked and blindfolded". The Rapporteur then visited the Kibumba refugee camp, where, on 27 December 1996, the fresh remains of 37 men were found, also bound, who had been shot or killed with axes no more than a week previously. Of course, many other corpses were found in the camp, but the Rapporteur wishes to highlight those cases where it was quite clear that death was not caused by the war. On a visit to the Katale refugee camp, he was told that the remains of 143 persons were buried there.

12. In the locality of Sake, the Rapporteur wished to visit a mass grave in a coffee plantation owned by a farmer named Madimba. However, the local inhabitants were reluctant to provide information. Only a child aged around 14 pointed out the places where there were two mass graves, one containing Rwandan refugees and the other members of the Mai-Mai militia. He said that they could not be visited because they were both in places which the AFDL forces had declared military zones.

13. The Rapporteur wished to visit the localities of Nyakariba and Niabitaba, one of the places cited most frequently in all reports as the scene of massacres, and accordingly requested the authorization necessitated by the prevailing lack of security. The Chef de Cabinet of the AFDL President foresaw no problems but said that he would consult his superior, since in the Masisi area fighting was continuing "and soldiers from the former Rwandan Armed Forces and the Interahamwe militias frequently organize ambushes". He said that as the authorization had been requested at such short notice, he could not offer an escort as he had wished. In the circumstances, the Rapporteur decided not to proceed with the visit.

14. The Rapporteur then visited the locality of Matanda, also the scene of massacres from the occupation until the present. Although the office of the Chef de Cabinet said that there were no security problems or other difficulties in that area, a young soldier manning a roadblock in the locality of Mushaki refused the Rapporteur passage, so that the visit had to be called off only five kilometres from Matanda.

II. THE EVENTS INVESTIGATED

A. Allegations of massacres perpetrated by the rebels

1. The annual report on human rights in Zaire

15. In the annual report which the Rapporteur completed and sent for editing, translation and publication on 31 December 1996 (E/CN.4/1997/6), various sections are devoted to violations of human rights and of international humanitarian law committed both by the FAZ and the Zairian authorities and by the rebel forces.

16. As far as the rebel forces are concerned, "there have been many reports of atrocities committed by AFDL, which habitually separates men from women and children. It is usually possible to determine the fate of the latter, but never that of the former" (para. 197). Paragraph 198 gives a long list of "killings and, in particular, all forms of homicide"; paragraph 199 states that "all reports indicate that AFDL kills rather than takes prisoners"; paragraph 208 states that AFDL obviously recruits children, while paragraph 209 reports difficulties placed in the way of humanitarian assistance by the rebels.

17. In this way, the Rapporteur believes that, well before the reports which gave rise to this mission, he had drawn attention to the events he was requested to investigate.

2. The allegations which gave rise to the mission

18. Both the statement by the High Commissioner and that made by the Security Council refer to a variety of reports published in the press and issued by human rights bodies.

19. The Rapporteur has studied these reports, as well as those from various political and religious figures in Zaire and abroad, reflecting their horror at what has occurred.

20. Many reports do not contain enough background information to enable an investigation to be conducted for the moment: sometimes only a general location is indicated; in other cases the date is not indicated, or it is impossible to determine the nature of the event, i.e. whether it involved genuine fighting or a violation of the right to life in breach of international humanitarian law.

21. In addition to the cases included in the annual report, the Rapporteur was provided with information on the following events:

3. Mass murders

BIGIRA (Kabare region, Southern Kivu): 100 individuals from the Alfajeri School were reportedly buried in a mass grave.

BIRAMBIZO (Masisi region, Northern Kivu): In early January, soldiers laid siege to the city, took the children from their families and killed their parents before their eyes. The bodies were piled behind the church and a $3 fee was charged for recovery of each body.

BITONGA: One morning, the men living there were removed by members of AFDL and taken to houses where they were executed. A witness reports having helped to bury 134 bodies.

BUKOMBO: On 31 December 1996, AFDL called a meeting and fired on those who attended, killing 300 persons. The rebel soldiers destroyed the hospital's stocks of medicine in order to prevent treatment of the wounded.

BURHALE (Bukavu region, Southern Kivu): According to a report transmitted to the Special Rapporteur, allegedly by an eyewitness who also mentions the Red Cross as a source, the rebels murdered some 600 refugees at the Kashusha camp. In reality, there are said to have been over 2,000 victims. The same information was provided by Deputy Prime Minister Kamanda wa Kamanda in a communiqué dated 16 February 1997.

CHIBUMBI (Masisi region, Northern Kivu): An individual from the Hutu ethnic group reports having spent three days near Numbi burying many victims killed by the rebels.

CHIDAHO (on the road to Irabata): A witness informed the Rapporteur that he had seen a common grave, but no bodies, in early November.

CHIMANGA (Walungu region, Southern Kivu): According to a report from Deputy Prime Minister Kamanda dated 16 February 1997, about 500 persons were killed at this camp; the same information was provided by Amnesty International. Other sources state that 103 bodies were found.

CHANZU (near Jomba, Rutshuru region, Northern Kivu): According to a non-governmental organization, 207 people were killed in an ambush after being called to a meeting at a church.

GOMA: A communiqué from the Zairian Association for the Protection of Human Rights (AZADHO), one of the country's most respected human rights organizations, reported mass graves in the following locations: (a) in Trois Paillotes, near the Kalamo Hotel; (b) behind the Petroset petrol station near the TMK/Goma junction; (c) in the "Axe Katindo" (some 15 graves); (d) in the Anuarité primary school, beside the basketball court; (e) at the small Kasoko Kacheche market (at least two graves); (f) at the small Kaoko Instigo market; (g) in a corridor at the home of the principal regional inspector, across from the Amani high school.

JOMBA (Rutshuru region, Northern Kivu): Armed forces from Rwanda killed a priest and five nuns in early November.

KABINGO (Masisi region, Northern Kivu): Many Hutu fighters were killed in late January during an AFDL search for arms at the home of Mwami Shrimpumu. When the Hutu fighters had left, the rebels killed civilians.

KAGUSA (Masisi, Northern Kivu): The residents were called to a meeting where they were attacked with knives. The event took place in December 1996.

KAHINDO (Rutshuru region, Northern Kivu): According to a communiqué from Deputy Prime Minister Kamanda, about 100 persons were killed at this camp. An NGO, Grande vision pour la défense des droits de l'homme, reported 200 deaths, but a letter from an individual claiming to have been an eyewitness mentions 3,500 deaths.

KAHIRA: According to AZADHO, Zairian Hutus and refugees were massacred.

KAPANZI: According to a Burundian refugee, the camp was shelled from Rwanda.

KAROBA (Masisi, Northern Kivu): One Saturday in January 1997, 35 residents were killed at the church by AFDL troops, who returned the next day and killed an additional 42 persons.

KASIBA (Southern Kivu): The Rapporteur interviewed a witness who stated that an individual he knew who had lost three relatives had told him that Banyamulenge troops had killed many people there in early October. He claimed to know of the existence of 103 bodies at that location.

KASURA: Both the Party of Nationalists for Integral Development (PANADI) and AZADHO state that Zairian Hutus and refugees were killed there.

KATALE (Rutshuru region, Northern Kivu): Both Deputy Prime Minister Kamanda and AZADHO have mentioned the murder of 500 (the Deputy Prime Minister) or 200-300 persons (AZADHO) at this refugee camp. The Rapporteur visited the camp and was informed of the death of 143 persons.

KIBABI: According to a second-hand account from a member of the Hutu ethnic group, as well as a PANADI report, many people have been killed in various AFDL attacks.

KIBUMBA: According to the above-mentioned AZADHO communiqué, between 50 and 100 skeletons are located in each of three locations at this refugee camp. The Rapporteur visited the camp and was able to verify the existence of graves, but not the number of bodies.

KIBUMBA PARC: The Rapporteur visited two locations in this park, where there were obvious signs of graves, but was unable to determine the number of bodies buried there. However, a witness who claimed to have found a number of bodies stated that "they were still warm, as if they had been killed that same day; this was during the month of January".

KIBUMBA VILLAGE: Over 1,500 bodies were found in the village, removed and buried by a group of residents, one of whom told the Rapporteur that "there were many of them whom we did not know, but we thought it would be humane to bury them. We were very frightened". According to a public report by Grande Vision, there were a total of 2,500 deaths in the three areas of Kibumba.

KILIMANYOKA (Northern Kivu): The Rapporteur observed 46 bodies in graves, some of whom had been found in January, freshly buried, naked and with their hands bound.

KIRUMBU: According to AZADHO, a massacre occurred in this location as well.

LUMBISHI (Masisi, Northern Kivu): A witness reports that AFDL killed several Hutu civilian refugees and Zairians. Although various important details are provided, the date on which the incident occurred is not mentioned. AFDL stated that all the victims were Interahamwe.

MATANDA (Masisi region, Northern Kivu): A health centre was destroyed by rebel soldiers, two male nurses were killed and the parish church was pillaged, creating a climate of terror which seems to persist even today. The Rapporteur came within five kilometres of the site, but a military patrol at Mushaki prevented him from continuing. According to PANADI, 250 people died in the incident.

MUNIGI: Decomposing, strong-smelling bodies were reportedly found in the woods near Munigi along the Kibumba-Rutshuru road in Northern Kivu. The incident has been mentioned by only one witness, who has not been questioned.

MUGUNGA (Katindo region, Goma, Northern Kivu): Deputy Prime Minister Kamanda reports that some 3,000 persons were killed at the refugee camp here. AZADHO claims that there were some 10,000 deaths, that the incident took place on 14-15 November 1996 and that the attack was carried out by the Rwandan Patriotic Army and the Mai-Mai militia.

MUGUNGA: According to AZADHO and an unidentified witness, the remains of 12 men, 10 women and 30 children, all of them shot through the head, were found at a location an hour and a half north of Mugunga.

MUSHABWABWE (community of Bwito, Northern Kivu): According to a major local NGO, AFDL attacked and killed former members of the Rwandan Armed Forces and Interahamwe; no dates or numbers were provided.

NGUNGU (Masisi region, Northern Kivu): According to AZADHO, the Mai-Mai militia and AFDL jointly attacked Ngungu on 19 November in reprisal for a massacre committed by refugees fleeing the Mugunga camp, resulting in about 1,500 victims, many of them innocent.

NYAKARIBA (Masisi region, Northern Kivu): Various sources mentioned that there was a massacre in this region on 22 December 1996, although the accounts vary considerably in numbers and other details. It is reported that out of a population of 25,000, only the women and children survived an attack by Mai-Mai with AFDL support on 24 December 1996. PANADI claims that there were 300 deaths. A witness reported bodies with their hands tied behind their backs.

NYAMITABA (community of Bashali, MASISI region, Northern Kivu, primarily Hutu): On the morning of 21 November 1996, Mai-Mai and AFDL troops reportedly killed some 50,000 persons, including about 1,000 refugees. An anonymous witness stated that there had been 4,500 deaths, but witnesses interviewed by the Rapporteur said that, while the events had indeed taken place, the actual numbers were far less. The magnitude of the incident called for a visit to the location by the Rapporteur, but he was unable to do so for the reasons mentioned above.

RUHEGERI (Masisi region, Northern Kivu): According to a witness's account read by the Rapporteur, the village was attacked one night in December 1996 by AFDL, resulting in the death of around 400 unarmed civilians, although other accounts mention 80 deaths.

SAKE (Northern Kivu): The Rapporteur received reports on the spot of a mass grave at a coffee plantation in which, according to AZADHO, several dozen refugees killed by the Mai-Mai militia were buried. According to a witness interviewed by the Rapporteur, five of the seven individuals murdered in one attack were women.

SHABUNDA: In a newspaper interview, a priest reported having been told by Rwandan refugees that AFDL soldiers had killed or caused the disappearance of their younger companions. It was also reported that rebels had attacked the refugee camp there, claiming an undetermined number of victims.

SHINDA (locality of Bweza, Rutshuru region, Northern Kivu): Rebels attacked the market in early January 1997, killing several people.

TONGO: A Rwandan refugee told the Special Rapporteur that "on 19 January, about 1.30 p.m., we were attacked by the criminals, who killed my father, my mother, my wife and my son. I fled. They killed 38 people. The attacking soldiers appeared to be Tutsis".

4. Summary executions attributed to the rebels

22. The Rapporteur was informed of the following summary executions attributed to rebels: (1) Mr. Muhosi Sebulire Karora, Chairman of the Virunga Farmers Association (MAGRIVI), together with his wife, in Kiwanja on 7 January 1997; (2) R. Elderly, a Hutu teacher, in Birambizo, Masisi; (3) Mr. Sanga, a Hutu and member of the NGO, CAJED, who was accused of being an Interahamwe and murdered during December 1996 in Goma; (4) Anselmo Kanyancogote; (5) Tambata Oswald; (6) Abbot Nirere Benoît and five nuns of the Saint Vincent de Paul congregation; (7) Nzavuga Paul; (8) Bitegetsimana Claer (January 1997); (9) Kabunga Kapitene; (10) Muhawe; (11) Gatambi Ndisetse; (12) Nsengiyumva Emmanuel (abbot); and (13) Kanyamaza Charles (deacon).

23. A witness stated that "anyone who wears jeans, is young or speaks Lingala is risking his life".

24. Two individuals told the Rapporteur that they had seen bodies floating in the lake in mid-December, when there was no longer any armed conflict in the region.

5. Enforced disappearances

25. (1) Come Cihababo, of Rutshuru, a former police officer with the Service national d'intelligence et de protection (National Intelligence and Protection Service - SNIP), who was held for 14 days in the former prison of the eighth district, at Goma, in February, has disappeared; (2) Bazar, another former SNIP officer and official of the Second Republic, was arrested in December and disappeared after being held for 50 days in the above-mentioned prison; (3) Tarcisse, a Hutu from Rutshuru and employee of UNICEF, who was arrested in Rutshuru on 13 January 1997 and of whom there has been no news; (4) Elima, a former customs official who was arrested on 28 January 1997 by ADFL soldiers in Goma, and has not been heard of since; (5) Balibutsa Desire, of whom there has been no word since his arrest on 22 January 1997; (6) Two Hutu taxi drivers whose names are unknown and who were arrested by ADFL soldiers in Goma; (7) Mwuyekure Léon, a doctor working for UNICEF and other agencies. His wife is the only witness who agreed to her name being published. He was abducted near the offices of UNHCR on 24 November by eight AFDL soldiers. His wife told the Rapporteur that she had met relatives of five other persons in a similar situation, but that, after receiving threats, they had decided to return to Rwanda; (8) Karimunda Pierre, who was arrested at his home on 19 November 1996; (9) Nikwigize Phocas, a Rwandan bishop who was arrested at the Rwandan border while attempting to return home on 30 November 1996; (10) Kaguriro Nsenga Jean Baptiste, who was arrested at his home on 2 December 1996; (11) Nturanyi Mupenda Pascal, a Rwandan, who was also

arrested on 2 December 1996; (12) Hakuzimana Ernest, who was also arrested at his home on that date; (13) Bavakure Enock, also Rwandan, arrested on 3 December 1996; (14) Thomas wa Bata.

6. Other human rights violations

26. Although they fall outside the terms of the request made by the High Commissioner regarding this mission, the Rapporteur feels compelled to mention that he received many accounts of other human rights violations, such as:

Torture and other cruel, inhuman or degrading treatment or punishment

27. Many people said that torture was still being practised, this time by AFDL, and witnesses agreed that detainees are frequently beaten violently in the stomach, as a result of which some of them have died. Mention was made of a woman who had been beaten on charges of witchcraft, although she in fact turned out to be seriously ill with malaria and finally survived. It was reported that Gatambi Modeste, the coordinator of the Protestant schools in Goma, had died as a result of torture. Hitimana Pierre, a leader of ACODRI, an NGO, was also tortured on premises of the 8th district in Goma on 11 January 1997.

28. The Rapporteur was also told that soldiers belonging to the Alliance had raped many women.

Violations of freedom of expression

29. Non-governmental organizations reported that it is impossible for them to distribute their reports. A striking example was the case of the Goma section of AZADHO; after a forceful report had been published in Kinshasa on the very acts investigated by the Rapporteur, the town's only radio station, controlled by the rebels, began a campaign to pressure and threaten the officials of the regional station into refuting the report broadcast by the central station.

30. It should be added that there is no freedom of expression, no newspapers circulate and there are no signs of pluralism on the radio.

Violations of the right to property

31. There have been numerous reports that property, including buildings and vehicles belonging to members of the Hutu ethnic group, as well as to people close to Marshal Mobutu's regime, have been confiscated by the rebel forces in power. One witness said that as far as the Alliance was concerned, "anyone who owns property is a Mobutu supporter".

Enlistment of children

32. The Rapporteur observed that the rebel forces were partly made up of children, a fact already denounced in his annual report (E/CN.4/1997/6, para. 208).

Impediments to humanitarian action

33. The annual report, submitted in December and published recently, described how "humanitarian assistance has been impeded by all parties to the conflict" (E/CN.4/1997/6, para. 209). This has grown worse during the current year, particularly in the area under rebel control.

34. Throughout the years of conflict, all those involved have taken the easy option of blaming the "international community", which boils down to UNHCR and the other humanitarian agencies, for all the atrocities. Thus, the Government in Kinshasa blames UNHCR for the lack of security in the camps which made possible the massacres by the rebels, regardless of the fact that it is the Government which is responsible for security throughout its territory, to which end it has also received financial and technical support from ZCSO (the Zairian Camp Security Operation). In turn, the rebels accuse UNHCR of having failed to remove those who intimidate the refugees and allowing them to make forays into Rwanda, even though UNHCR has always urged the removal of the Interahamwe and former FAR members, a request which the Government has failed to comply with despite its promise (E/CN.4/1996/66, para. 51, and E/CN.4/1997/6, paras. 157 and 158). Moreover, the rebels view the refugees as enemies, on the assumption that they are all armed, and this makes it undesirable, or at least unsafe, to provide assistance. Even aid is interpreted as support for the extremist refugees. Naturally, neither the humanitarian agencies nor the Rapporteur share this view.

35. While it is not true to say that the agencies are permanently and systematically prevented from entering the refugee camps, it is often difficult for them to do so, leading to delays, which are extremely costly in terms of human lives. The delays, for which the agencies are not responsible, give rise to criticism from the refugees, who are unaware of the huge efforts made to avoid them.

36. One such incident occurred during the mission. Some of the approximately 100,000 refugees who left Ubundu stopped at the Lula camp, where many of them were dying of hunger. However, UNHCR was unable to reach the camp because the Alliance refused to grant it access, on the usual grounds that it was a military threat. The refugees were asked to move 25 kilometres further south, which was absolutely impossible in view of their hungry and diseased condition. The Rapporteur hopes that the current discussions will make it possible for the aid to reach its destination.

37. The statistics on human rights violations do not cover deaths of refugees caused by delays in providing medical care and food, many of which were easily avoidable.

B. The explanations provided by the rebel authorities

38. The Rapporteur laid the allegations contained in this report before Laurent-Desiré Kabila's Chef de Cabinet, Moïse Nyarugabo.

39. The Chef de Cabinet justified the incidents in terms of the fact that a war was going on; he then claimed that the allegations were merely a smear campaign by the protégés of the former regime "which was a past master in

lying". He also claimed that the refugees and "countries with interests in Zaire that support Mobutu" had orchestrated a smear campaign to discredit the Alliance. He added that the Alliance had nothing to hide, and that the Special Rapporteur was welcome to carry out his mission. Finally, he argued that in principle he could see no reason why the Rapporteur or a commission should not carry out a definitive investigation.

40. Regarding the allegations concerning the lack of freedom of expression, he said that the NGOs are completely free to operate, to carry out their work and issue their publications; that the lack of other radios or newspapers was due to the fact that nobody had requested permission to set them up.

41. He justified the seizure of property on the grounds that it was merely temporary, while maintaining that only the ill-gotten gains of the former regime's highest-ranking leaders had been confiscated.

42. The Rapporteur pointed out that the arguments put forward were unacceptable: many of the alleged incidents could not be justified even in time of war, since war too, is subject to regulations and there are limits to what is permissible in combat. Alleging a smear campaign was the classic response of regimes that violated human rights, and merely destroyed the credibility of those who resorted to such a defence. Moreover, the inability of NGOs to publish reports had been repeatedly alleged and seemed to be a matter of fact. The absence of freedom of information is obvious in Goma, and confiscation had been directed not only against the property of senior dignitaries of the Kinshasa regime, but also that of traders without any links to the regime, despite the fact that such action could only be justified following consideration by the courts.

C. Incidents not covered by the preliminary investigation

43. The purpose of the Special Rapporteur's mission was to investigate the massacres of Hutu refugees which had allegedly occurred in many refugee camps in eastern Zaire (in pursuance of the High Commissioner's statement) and the consequences of the continued fighting for the refugees and inhabitants in the region (under the statement by the President of the Security Council). In view of the shortness of the mission and the need to prepare an urgent report for the current session of the Commission on Human Rights, it was not possible for the Rapporteur to investigate - as he would have liked to do - the violations of the right to life committed by the refugees themselves (such as those in HOMBO (in the region of Kalehe, Southern Kivu); those in KITCHANGA (otherwise known as "Itebero" or "Kirorewe") on 6 and 7 November 1996, during which, as a relative of one of the injured told the Rapporteur, members of the former FAR killed approximately 500 or 600 civilians and Mai-Mai, although other sources put the number of dead at 1,500; those at MINOVA (Kalehe region, Northern Kivu), in which eight Tutsis were killed on 5 November 1996 by Mai-Mai; those of 2 November 1996 at NGUNGU, in which, according to an eyewitness, seven persons were killed by Hutu militia; or the frequent attacks against the refugees wishing to return to their country by the Interahamwe and former FAR).

44. Nor was he able to investigate the crimes committed by the Zairian Armed Forces (FAZ), such as the shelling of a village at kilometre 314 on the Kisangani road, killing all the inhabitants, and many others.

D. The current situation as regards violations of the right to life

45. The Rapporteur has decided to devote a separate section to reports of incidents that occurred in February and March 1997, in order to highlight the urgent need to undertake the necessary investigations to prevent their repetition. **Everything described in this report didn't just happen yesterday, but is still going on today**. The aim of the thwarted visit to Matanda was precisely that: witnesses have reported executions taking place between 18 December and 21 March.

13 February: approximately 100 refugees were massacred at Kingulube;

14 February: soldiers belonging to AFDL cut a refugee's throat at Kibandamango;

20 February: 17 refugees were killed at Luseke, Southern Kivu;

21 February: 29 refugees from Shabunda were killed at Kingulube;

21 February: a large number of people were murdered in an ambush;

22 February: 16 refugees were hacked to death at Mitaba;

25 February: the Nunciature reported that 11 refugee priests and nuns were murdered at Kalima, Maniema, by soldiers belonging to AFDL; the victims were Antoine Hatakekimana, Emmanuel Munyakazi, Jean Uwizeyimana, Norbert Mulino Ubona Mihigo, Francois-Xavier Muyoboke; Urbain Twagirayezu, Etienne Kabera, Augustin Nkuli Kiyumukiza, Marie-Francine Nyirarukundu, Félicité Mukamihogo and Clotilde Myirabakungu;

8 March: two refugee women and two refugee children were detained by members of AFDL at Kingulube;

11 March: a former member of FAR was allegedly killed by AFDL soldiers at Mwezo;

15 March: soldiers belonging to AFDL killed a Hutu, who had been living in Zaire for years, at his home, after having interrogated and tortured him the day before.

46. One witness summed up the situation in a nutshell: "In the region of Masisi refugees and Zaïrians are being shot almost every day by the Banyamulenge. But the security situation is not alarming as calm returns after the massacres".

III. CONCLUSIONS AND RECOMMENDATIONS

A. Conclusions

47. The mission with which the Rapporteur was entrusted by the High Commissioner for Human Rights was subject to four kinds of restriction: (a) the brief was drawn up in terms of preparations for an in-depth mission; (b) the Rapporteur was assisted by a single assistant and the officer in charge of the High Commissioner's office in Kinshasa, and he was given no scientific support; (c) in terms of time, the Rapporteur had to limit himself to only five days, as he was requested to submit his recommendations to the current session of the Commission on Human Rights; (d) he was not requested to provide a report on the overall human rights situation in Zaire, nor in the region occupied by the rebels, but only on the allegations of massacres of Hutu refugees.

48. As a whole, the information compiled in this report confirms the situation already described by the Rapporteur in his annual report, submitted on 31 December (E/CN.4/1997/6, paras. 197 to 209), concerning the serious violations of the right to life committed by the Alliance. Although the information is frequently inadequate and even contradictory, as a rule the acts denounced actually occurred. The events at Lemera and Kidote on 6 October; at Bukavu on 31 October; at Goma in early November; at Matanda, Katale, Mugunga, Chimanga, Nyakariba, Nyamitaba and elsewhere are for the most part confirmed by numerous reports and testimonies, although estimates of the number of victims vary.

49. Some reports, which advance figures out of all proportion even to the number of inhabitants of the scenes of the incidents, are undoubtedly exaggerated. In the case of Nyakariba, figures vary from 300 to 15,000, while in the case of Nyamitaba, the figure ranges from several hundred to 4,800 and even 50,000.

50. It is indisputable that the Alliance of Democratic Forces for the Liberation of Congo-Zaire is far from fulfilling its commitments to respect human rights.

B. Recommendations

51. The Rapporteur believes that the events described in this preliminary report cannot go unpunished. **What is described here is still going on, with complete impunity**. As everyone knows, the best way to prevent violations of human rights and of international humanitarian law is to investigate the events, to try those responsible and to impose appropriate punishments.

52. Since 1974 the Commission on Human Rights has developed a set of mechanisms to investigate human rights violations, either in a particular country or when they constitute a particularly reprehensible or perverse violation of human dignity. The growing efficiency of the mechanisms may be judged by the confidence shown in them by human rights activists and institutions and by the impact of their reports. A further advantage is their public nature.

53. Various types of coordination have been established through these procedures, in conformity with the mandate from the World Conference on Human Rights, leading to joint missions and reports.

54. Although these reports have so far been submitted to only one, or at the most two forums (the annual session of the Commission on Human Rights and, in some cases, the session of the General Assembly), there is nothing to prevent other bodies such as the Security Council, from dealing with them.

55. In the light of the above, the Special Rapporteur wishes to make the following recommendations to the Commission:

1. In conformity with the procedure laid down in Economic and Social Council resolution 1235 (XLII), it should decide to investigate the gross violations of the right to life committed in eastern Zaire against refugees and the local population, by establishing a commission which could comprise a member of the Working Group on Enforced Disappearances, the Special Rapporteur on extrajudicial executions, the Special Rapporteur on the question of torture and the Special Rapporteur on human rights in Zaire;

2. The Secretary-General should provide the future commission with all necessary technical and financial support, including the participation of forensic experts, anthropologists, ballistics experts and such other experts as are required;

3. The High Commissioner for Human Rights should keep the Secretary-General, and through him the General Assembly and the Security Council, informed of the progress made in the work of the commission, and of the interim and final reports produced by it.

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